

Weatherization Program Notice 99-7

Effective Date - August 27, 1999

SUBJECT: WEATHERIZATION ASSISTANCE PROGRAM ELIGIBILITY CRITERIA

PURPOSE: To provide States with guidance on the interpretation of certain eligibility criteria for use in the Low-Income Weatherization Assistance Program (Weatherization).

SCOPE: The provisions of this guidance apply to all grantees applying for financial assistance under the Department of Energy Weatherization Assistance Program (DOE). The provisions of this guidance apply to all grantees applying for financial assistance under the Department of Energy Weatherization Assistance Program (DOE).

BACKGROUND: Title IV, Energy Conservation and Production Act as amended authorizes the Department of Energy to administer the Low-Income Weatherization Assistance Program. All grant awards made under this program shall comply with applicable law including, regulations contained in 10 CFR Part 440, and other procedures applicable to this regulation as DOE may from time-to-time, prescribe for the administration of financial assistance. Title IV, Energy Conservation and Production Act as amended authorizes the Department of Energy to administer the Low-Income Weatherization Assistance Program. All grant awards made under this program shall comply with applicable law including, regulations contained in 10 CFR Part 440, and other procedures applicable to this regulation as DOE may from time-to-time, prescribe for the administration of financial assistance.

During recent discussions with State and local agencies concerning possible changes to the program regulations, it became clear that there is a great deal of confusion over the interpretation of the eligibility criteria for Weatherization. In particular, State and local agencies are unsure of the flexibility offered when States elect to use the LIHEAP criteria when using DOE funds. Also, questions arise when States elect to use the DOE regulations to administer their LIHEAP funds.

DOE will not propose any new changes to the program eligibility in the upcoming program rulemaking. DOE feels that the existing regulations provide States with adequate flexibility to administer their weatherization programs. This flexibility helps coordination with other Federal programs, utility programs, and other programs with non-Federal leveraged resources.

PROCEDURES: Section 440.22(a)(3) permits States, if they elect, to use the LIHEAP eligibility criteria in administering DOE funds. Under the LIHEAP statute, States may select either income up to 150% of poverty, 60% of State-median income, or food stamps as the basis for determining eligibility. Under the DOE regulations, these figures are interpreted as ceilings and were designed to provide maximum flexibility to the States regardless of any other eligibility level that may have been set for any other Federal program by a particular State. Section 440.22(a)(3) permits States, if they elect, to use the LIHEAP eligibility criteria in administering DOE funds. Under the LIHEAP statute, States may select either income up to 150% of poverty, 60% of State-median income, or food stamps as the basis for determining eligibility. Under the DOE regulations, these figures are interpreted as ceilings and were designed to provide

maximum flexibility to the States regardless of any other eligibility level that may have been set for any other Federal program by a particular State.

In the LIHEAP Program, States may use any income eligibility level between 110% of poverty and the statutory maximum for each component of its program. For example, a State may use 130% of the poverty level for its heating component and 60% of State-median income for its weatherization component. In the weatherization component, a State may elect to use none, some, or all of the DOE regulations. If the State elects to use some or all of the DOE regulations for the LIHEAP weatherization component, then the State may use the eligibility criteria ceilings as defined in the DOE regulations. States are reminded that the LIHEAP State plan must include a description of the extent to which the State will follow the DOE regulations and the eligibility requirements for all types of assistance offered, including weatherization.

States which elect to use LIHEAP funds under the DOE regulations may also use the same interpretation for setting eligibility criteria as stated above. The only exception would be that if the State legislature or other administrative body within the State specifically prohibits using the flexibility offered by the DOE regulations. When using DOE funds, States are reminded that regardless of the eligibility level selected under the LIHEAP criteria, those individuals who would have been eligible for assistance under the DOE criteria as stated in Section 440.22(a)(1) and (2) would remain eligible under any LIHEAP criteria selected by the State. Also, once the State has determined the eligibility criteria to be used for Weatherization, that criteria must be used Statewide. Other issues relating to the optional use of DOE regulations for LIHEAP funds are discussed in LIHEAP-IM-99-11.

States not clear on the specifics of using DOE regulations to administer LIHEAP funds or other eligibility issues should contact their Regional Office Weatherization Program Manager.

Gail McKinley, Director
Office of Building Technology Assistance
Energy Efficiency and Renewable Energy